

REMARKS/ARGUMENTS

Upon entry of this amendment, claims 1–38 will be pending. By this amendment, claims 1, 8, 15, 16, 22, 23, 25, 30, 31, 35, 36, and 38 have been amended. Support for these amendments is found in the specification and claims of the application as filed. No new matter has been added.

Applicants respectfully request entry of the foregoing amendments and reconsideration of the application in light of the amendments above and the remarks below.

I. 35 U.S.C. § 102 Rejection of Claims 1, 2, 4–6, 8, 9, 11, 13, 15–17, 19, 20, 22, 23, 25–32, and 35

In the Office Action dated July 10, 2008 (referred to hereinafter as “the Office Action”), claims 1, 2, 4–6, 8, 9, 11, 13, 15–17, 19, 20, 22, 23, 25–32, and 35 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,269,423 by Lee et al. (referred to hereinafter as “Lee”).

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ... claim.” Id. (citing Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, “the reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.” In re Paulsen, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims as presented herein are patentably distinct from the cited references. The cited references do not disclose all of the subject matter in these claims.

Independent claim 1 recites:

first logic to determine if each of one or more remote devices
corresponding to one or more data transmission indicators has
a capacity reservation in an admission profile,

wherein the admission profile is indicative of expected data requirements for flows already admitted; and

second logic to allocate capacity in accordance with a data transmission indicator when a capacity reservation is found.

(Emphasis added.)

As stated in the Specification, “the admissions control unit evaluates the availability of capacity for the requested new flow, based on the existing admission profile, which is indicative of the expected data requirements for the flows already admitted. An example manner of determining how to incorporate a requested flow in light of an existing profile is described above with respect to FIG. 4.” Specification, paragraph [0069] (emphasis added).

The Office Action asserts that the “remote devices” are disclosed by “MS1” in Figure 1 of Lee. (See *Office Action*, page 2.) In addition, the Office Action asserts that “[a] scheduler” is the “BTS” in Figure 1 of Lee. (*Id.*) Further, the Office Action asserts that the “first logic” is step 504 in Figure 9 of Lee. (*Id.*) However, regarding step 504, Lee states:

The BSC controller 311 determines whether the requested call requires a QoS guarantee and checks the service type of the call and its requirements in a message received from the MSC 30 in step 504. *Lee*, col. 9, lines 14–17.

Lee further states:

[I]n step 504 the BSC controller 311 determines whether radio resources are available, that is, whether the SDU/RLP resources with which to establish a communication path with the MS are available in the BSC. *Lee*, col. 9, lines 44–47.

Applicants respectfully maintain that simply determining whether radio resources are available does not disclose “determin[ing] if each of one or more remote devices . . . has a capacity reservation in an admission profile.” A “capacity reservation” implies that the capacity has been previously set aside (*i.e.* reserved) for a remote device. Lee merely discloses at the cited section that the “BSC controller . . . determines whether radio resources are available.” There is no disclosure in the above-cited passage of Lee of determining whether or not “a capacity reservation in an admission profile” exists. Lee does not disclose whether or not the “MS1” has “a capacity reservation in an admission profile.”

Further, as previously stated, the Office Action asserts that the BTS in Figure 1 is “[a] scheduler”. (See *Office Action*, page 2.) However, the Office Action later asserts that it is “the BSC controller” that includes the “first logic to determine if each of one or more remote devices corresponding to one or more data transmission indicators has a capacity reservation in an admission profile.” (See *Office Action*, page 2.) Lee clearly indicates in Figure 1 that the BTS is not the BSC (BTS 10-a and BSC 20). In other words, the Office Action first asserts that the BTS discloses “[a] scheduler” but later, the Office Action asserts that it is the BSC, not the BTS, that includes the “first logic to determine if each of one or more remote devices corresponding to one or more data transmission indicators has a capacity reservation in an admission profile.” As previously stated, Lee does not disclose that the BTS and the BSC are the same entity.

Moreover, claim 1 as presented herein includes a limitation providing for an admission profile that is indicative of expected data requirements for flows already admitted. By contrast, Lee discloses, for example, a user profile having a service type indicator, a set of parameters related to a QoS level required of the service, a subscriber identifier, and authentication parameter. (See *Lee*, Col. 4, lines 43–49.) A QoS is defined only as a minimum and maximum number of bits to be transmitted in a number of seconds. (*Id.*, at Col. 5, lines 1–2.) Lee therefore fails to teach or suggest an admission profile that is indicative of expected data requirements for flows already admitted, and thus fails to teach or suggest all of the limitations of claim 1.

Based on the foregoing discussion, claim 1 should be allowable over Lee. Further, since independent claims 8, 22, 23, 25, 30, 31, 35, 36, and 38 parallel claim 1 and recite similar limitations as recited therein, claims 8, 22, 23, 25, 30, 31, 35, and 38 should also be allowable over Lee. Furthermore, since claims 2, 4–6, 9, 11, 13, 15–17, 19, 20, 26–29, and 32 depend from claims 8, 22, 23, 25, 30, and 31, claims 2, 4–6, 9, 11, 13, 15–17, 19, 20, 26–29, and 32 should also be allowable over Lee.

Accordingly, it is submitted that the rejection of claims 1, 2, 4–6, 8, 9, 11, 13, 15–17, 19, 20, 22, 23, 25–32, and 35 based upon 35 U.S.C. §102(e) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

II. 35 U.S.C. § 103 Rejection of Claims 7, 12, and 18

Claims 7, 12, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,728,270 Meggers et al. (referred to hereinafter as "Meggers"). Applicants respectfully submit that claims 7, 12, and 18 are patentably distinct from the cited references.

As discussed in the foregoing, independent claims 1 and 8 should be allowable over Lee. Claim 7 depends from claim 1, and claims 12 and 18 depend from claim 8. Therefore, claims 7, 12, and 18 should also be allowable over Lee. Meggers was cited for disclosing merely a system using best-effort queues. See *Office Action*, page 8. However, even assuming that Meggers discloses a system using best-effort queues, Meggers fails to cure the deficiencies of Lee. Therefore, since claims 7, 12 and 18 should be allowable over Lee as discussed above, Lee and Meggers, individually or in combination, fail to teach or suggest all the limitations of claims 7, 12 and 18.

Accordingly, it is submitted that the rejection of claims 7, 12 and 18 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

III. Claims 3, 10, and 21 Rejected Under 35 U.S.C. § 103

Claims 3, 10, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,567,387 to Dulin (referred to hereinafter as "Dulin").

As discussed in the foregoing, independent claims 1 and 8 should be allowable over Lee. Since claims 3, 10, and 21 depend from one of claims 1 and 8, claims 3, 10, and 21 should also be allowable over Lee. Dulin was cited for disclosing merely a communication system for scheduling data transmission. See *Office Action*, page 9. However, even assuming that Dulin discloses a communication for scheduling data transmission, Dulin fails to cure the deficiencies of Lee. Therefore, since claims 3, 10, and 21 should be allowable over Lee as discussed above, Lee and Dulin, individually or in combination, fail to teach or suggest all the limitations of claims 3, 10, and 21.

Accordingly, it is submitted that the rejection of claims 3, 10, and 21 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

IV. Claims 14, 24, 33, and 34 Rejected Under 35 U.S.C. § 103

Claims 14, 24, 33, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,650,630 to Haartsen (hereinafter, "Haartsen").

Based on the foregoing, independent claims 8, 23, and 31 should be allowable over Lee. Since claims 14, 24, 33, and 34 depend from one of independent claims 8, 23, and 31, claims 14, 24, 33, and 34 should also be allowable over Lee.

As to claims 14 and 24, the Office Action states, "Lee does not disclose modifying an admission profile to incorporate a data flow. Haartsen, ... discloses an admission profile generated by the collection of transmission requests from the remote terminals (column 11, lines 46-51); where the profile is changed depending on the group of transmission requests.)" *Office Action, page 9*. Applicants respectfully disagree with this interpretation.

As discussed above in relation to the §102 rejection, it is stated in the Specification, "the admissions control unit evaluates the availability of capacity for the requested new flow, based on the existing admission profile, which is indicative of the expected data requirements for the flows already admitted. An example manner of determining how to incorporate a requested flow in light of an existing profile is described above with respect to FIG. 4." *Specification, paragraph [0069]* (emphasis added). As a result, for example, "[u]nused resources in a MAC frame are made available to other flows." *Id., at paragraph [0040]* (emphasis added).

By contrast, Haartsen discloses that "the task is to find a solution to a combinatorial packing problem, like the popular game Tetris. If there are N services (users) and K radios, then there are K^N/K , or K^{N-1} , possible combinations to consider, and one usually wants the combination yielding the best overall efficiency (i.e., fewest unused slots)." *Haartsen, Col. 11, lines 13-18* (emphasis added). Further, "[o]ne way is simply to carry out an exhaustive search, testing all possible combinations." *Id., at Col. 11, lines 25-27* (emphasis added). Thus, Haartsen fails to teach or suggest "conditionally admitting the flow when the flow parameters, if

combined with the admission profile, would not exceed the system capacity,” as recited in claims 14 and 28.

Moreover, Haartsen fails to teach or suggest an admission profile that is indicative of expected data requirements for flows already admitted, as recited in independent claims 8 and 23, upon which claims 14 and 24 depend, respectively. Thus, Haartsen fails to cure the deficiencies of Lee. Therefore, since claims 14 and 24 should be allowable over Lee as discussed, Lee and Haartsen, individually or in combination, fail to teach or suggest all the limitations of claims 14 and 24.

As to claim 33, the Office Action states, “Haartsen discloses an admission profile generated by the collection of transmission requests from the remote terminals (column 11, lines 46–51). The admission profile contains a bandwidth ratios ... and frequency assignments....” *Office Action, page 10*. However, even assuming Haartsen discloses an admission profile containing bandwidth ratios and frequency assignments, Haartsen fails to teach or suggest an admission profile that is indicative of expected data requirements for flows already admitted, as recited in independent claim 31, upon which claim 33 depends. Thus, Haartsen fails to cure the deficiencies of Lee. Therefore, since claim 33 should be allowable over Lee as discussed, Lee and Haartsen, individually or in combination, fail to teach or suggest all the limitations of claim 33.

As to claim 34, the Office Action states, “Haartsen ... discloses an admission profile generated by the collection of transmission requests from the remote terminals (column 11, lines 46–51). The admission profile contains a bandwidth ratios ... and frequency assignments....” *Office Action, page 10*. However, even assuming that Haartsen discloses an admission profile containing bandwidth ratios and frequency assignments, Haartsen fails to teach or suggest an admission profile that is indicative of expected data requirements for flows already admitted, as recited in independent claim 31, upon which claim 33 depends, and which was discussed above. Thus, Haartsen fails to cure the deficiencies of Lee. Therefore, since claim 34 should be allowable over Lee as discussed, Lee and Haartsen, individually or in combination, fail to teach or suggest all the limitations of claim 34.

Accordingly, it is submitted that the rejection of claims 14, 24, 33, and 34 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

V. 35 U.S.C. § 103 Rejection of Claim 36

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 7,085,279 to Kumar et al. (referred to hereinafter as "Kumar"). Applicants respectfully maintain the traversal of this rejection. The standard to establish a *prima facie* case of obviousness is provided above. See *M.P.E.P.* § 2142.

Independent claim 36 recites "granting one or more of the transmission requests in accordance with an admission profile, wherein the admission profile includes a capacity reservation for the one or more remote devices." Lee, alone or in combination with Kumar, does not teach or suggest this subject matter.

The Office Action appears to assert that step 504 in Figure 9 of Lee constitutes "granting." See *Office Action*, page 10. Regarding step 504, Lee states:

...the BSC controller 311 determines whether radio resources are available, that is, whether the SDU/RLP resources with which to establish a communication path with the MS are available in the BSC.

Lee, col. 9, lines 44-47.

Simply determining whether radio resources are available does not disclose "granting one or more of the transmission requests in accordance with an admission profile, wherein the admission profile includes a capacity reservation for the one or more remote devices." A "capacity reservation" implies that the capacity has been previously set aside (*i.e.* reserved) for a remote device. Lee merely discloses that the "BSC controller . . . determines whether radio resources are available." There is no disclosure in the above-cited passage of Lee of determining whether or not "the admission profile includes a capacity reservation for the one or more remote devices." Lee does not disclose whether or not the "MS1" has "a capacity reservation" in an admission profile.

The addition of Kumar does not overcome the deficiencies of Lee. The Office Action merely points to Kumar to support the assertion that "Kumar . . . discloses a computer readable

medium.” *Office Action, page 10.* The Office Action does not point to, and Applicants cannot find, any teaching or suggestion by Kumar of “granting one or more of the transmission requests in accordance with an admission profile, wherein the admission profile includes a capacity reservation for the one or more remote devices.”

In view of the foregoing, Applicants respectfully submit that claim 36 is patentably distinct from the cited references, and that the rejection of claims 14, 24, 33, and 34 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

VI. Claim 37 Rejected Under 35 U.S.C. § 103

Claim 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Kumar and further view of Haartsen. While the Office Action includes Kumar as a basis for rejection, only Lee and Haartsen are cited in the supporting argument. Accordingly, only Lee and Haartsen are addressed in the following argument for overcoming the rejection.

As discussed in the foregoing, independent claim 36 should be allowable over Lee. Since claim 37 depends from claim 36, claim 37 should also be allowable over Lee. Haartsen was cited for similar reasons for the §103 rejection of claims 14 and 24, discussed above. See *Office Action, pages 9, 12, and 13.* Accordingly, the arguments provided above to overcome the rejection of claims 14 and 24 are applied in full force to the rejection of claim 37. Therefore, since claim 37 should be allowable over Lee as discussed above, Lee and Haartsen, individually or in combination, fail to teach or suggest all the limitations of claim 37.

Accordingly, it is submitted that the rejection of claim 37 based upon 35 U.S.C. §103(a) has been overcome by the present remarks and withdrawal thereof is respectfully requested.

VI. Previously Presented Claim 38

Previously presented claim 38 appears not have been addressed in the Office Action. Based on the foregoing discussion, claim 1 should be allowable over Lee. Since claim 38 recites similar limitations as recited in claim 1, claim 38 should therefore also be allowable over Lee.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants respectfully request reconsideration of claims 1-38, in view of the remarks and submit that all pending claims are presently in condition for allowance. Applicants do not acquiesce to any of the positions set forth by the Examiner in any of the present and prior Office Actions.

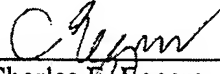
In the event that additional cooperation in this case may be helpful to complete its prosecution, the Examiner is cordially invited to contact Applicants' representative at the telephone number written below.

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account 17-0026.

Respectfully submitted,

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